

THE HON'BLE SRI JUSTICE BILAL NAZKI

AND

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO.23098 OF 2007

Dated 01-11-2007

Between:

M/s Bharathi Constructions Co.

...Petitioner

And

The Commercial Tax Officer and
Two others

...Respondents

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THE HON'BLE SRI JUSTICE BILAL NAZKI

AND

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO.23098 OF 2007

ORDER (Per the Hon'ble Sri Justice Bilal Nazki):

Heard learned counsel for the parties. With their consent, the writ petition is being disposed of at this stage.

The controversy is that pending appeals before the Sales Tax Appellate Tribunal, Hyderabad, applications for stay filed by the petitioner were dismissed by the Joint Commissioner-the third respondent by his order dated 30-12-2005. In the meanwhile, the Commercial Tax Officer-the first respondent has issued the impugned garnishee notice dated 16-10-2007. Hence, the petitioner has filed this writ petition to restrain the first respondent from taking any coercive steps for collection of the disputed tax, pending disposal of the appeals before the Tribunal.

We have gone through the record and heard learned counsel for the parties. We feel that the interest of justice would have been met if stay was granted pending appeals, subject to deposit of 50 per cent of the disputed tax. Therefore, we set aside the order of the third respondent, dated 30-12-2005, and direct that 50 per cent of the disputed tax shall be paid by the petitioner, within a period of four weeks. For four weeks, there shall be an unconditional stay of collection of the disputed tax and the impugned notice, dated 16-10-2007, pertaining to the years

1998-1999 and 1999-2000 shall also be not given effect to. If the amount, as directed by us hereinabove, is deposited within four weeks, the stay of collection of the disputed tax shall continue till disposal of the appeals before the Tribunal and the impugned notice, pertaining to the years 1998-1999 and 1999-2000, shall also stand set aside. The deposit of amount shall be without prejudice to the rights of the petitioner in the appeals. However, if the petitioner has already paid any amount towards the disputed tax, while calculating the 50 per cent amount, the amount paid by the petitioner shall be given credit to.

The writ petition is accordingly disposed of. No costs.

Bilal Nazki,J

Dated 1st November, 2007

Ramesh Ranganathan,J

Note: Issue wire at party's cost

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